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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,631	11/01/2001	Andre F. A. Fournier	44375/24:1	4087

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Stoel Rives LLP  
900 SW Fifth Avenue Ste 2600  
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EXAMINER
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GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 08/05/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/016,631

**Applicant(s)**

FOURNIER ET AL.

**Examiner**

Tilahun B Gesesse

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-22-02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2,4-9,11-13,21,23-28 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated- by Souissi (2002/006808).

As to claim 1, Souissi discloses a method of wireless communication of digital data page 2, para. 0027-0028 and figure 9) comprising: Souissi discloses providing a mobile unit (figure 9) having a plurality of alternative modes of digital wireless communication (CDPD, GSM, GPRS, EDGE , CDMA, W-CDMA or CDMA200, page 1, para 0006 and figure 9, page 2, para 0012) operating the mobile unit to assess at least a selected characteristic of each of the alternative modes (criteria figure 7 and page 4,

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para.0042) based on the assessment ,determining a preferred mode (page 3 para 0037-page 4, para 0039 and 0043), and transmitting data via the preferred mode (page 1, para 0003).

As to claim 2, Souissi discloses the mobile unit comprises an accessory device detachably connected to a wireless telephone handset (page 1, para 0010).

As to claim 4, Souissi discloses at least one of the modes of digital wireless communication are selected from a group comprising GSM , GPRS , CDPD, EDGE,W-CDMA or CDMA2000 (figure 9).

As to claim 5, Souissi discloses selecting from the group of characteristics comprising return signal strength , cellular roaming (page 4, para 0042 and figure 7).

As to claim 6, Souissi discloses the selected characteristic is the result of a function of at least a plurality of the members of the group of characteristics (page 4, para 0042 and figure 7).

As to claim 7, Souissi discloses transmitting the data to a call center for processing , and receiving from the call center a communication including digital data based on the transmitted data (page 4, para 0045-0046, page 1 para 0010).

As to claim 8, Souissi discloses operating the mobile unit to receive a geographic location signal , and transmitting the data includes transmitting a message based on the geographic location signal (page 2 para 0011).

As to claims 9, 12,Souissi discloses receiving location information from the center (GPS receiver provide accurate geographic location , page 3 para.0032 and figure 2A)

As to claims 11, 13 Souissi discloses transmitting occurs in response to a communication received from a location apart from the mobile unit (host computer , (page 4, 0045-0046).

As to claims 21, 25-26, 30 Souissi discloses a multimode digital wireless communication system (figure 2A) comprising: a call center having a server connected to the Internet (275) and to a wireless telecommunication network (figure 6) a packet data controller (Modem CPU, 235) connected to the Internet (275) and to the wireless network (figure 2A) and the call center being operable to communicate with a remote unit via a plurality of modes selected from the group of modes (figure 9). Souissi inherently teaches voice. Souissi teaches data calls via the wireless telecommunication network, and packet data modes via the packet data controller (page 1 para 0006).

As to claim 23, Souissi discloses the call center is operable to communicate with the remote unit via a plurality of different packet data modes (page 1 para.0006).

As to claim 24, Souissi discloses at least one of the modes of digital wireless communication are selected from a group comprising GSM , GPRS , CDPD, EDGE, W-CDMA or CDMA2000 (figure 9).

As to claim 27, the call center is operable to receive location information from the remote unit and to process the location information to generate location information in a second format.

As to claim 28, the call center is operable to transmit the second format information back to the remote unit

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 14-20, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi in view of Janky (5,786,789).

As to claim 14, Souissi discloses a wireless unit transmitting circuitry operable to communicate via at least a plurality of different digital signal transmission protocols with a remote facility and mode selection circuitry operable to select a preferred protocol based on at least a selected characteristics of each of the alternative modes.

Souissi does not expressly teach an accessory device for use with a wireless handset, a power storage facility, electrical connected to the power storage facility for supplying power to the handset; a GPS receiver operable to receive a location signal to wireless handset.

However, Janky discloses an accessory device (124) for use with a wireless handset (120), a power storage facility (146), electrical connected to the power storage facility for supplying power to the handset; a GPS receiver (140) operable to receive a location signal to wireless handset (column 5 line 50 through column 7, line 41 and figures 8 and 9).

Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to combine Souissi and Janky in adapting an accessory, to

wireless device , as taught Janky, in order to facilitate location information and power to wireless device.

As to claims 10,29, Souissi does not expressly disclose location information selected from latitude , longitude or altitude.

However, Janky teaches location information selected from latitude , longitude or altitude (column 6, lines 15-33 and figure 8). Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to combine Souissi and Janky in selecting location information , as taught by Janky, in order to acquire the necessary data from GPS for locating the wireless device.

As to claim 16, Souissi discloses at least one of the modes of digital wireless communication are selected from a group comprising GSM , GPRS , CDPD, EDGE,W-CDMA or CDMA2000 (figure 9).

As to claim 17-19, Souissi discloses selecting from the group of characteristics comprising return signal strength , cellular roaming (page 4, para 0042 and figure 7).

As to claim 20, Souissi discloses receiving GPS (280) location information (figure 1).

Claims 3,15,22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Souissi as applied to claims 1-2,5-13,21,23-30 above, and further in view of Mizell et al (2002/0077131).

As to claims 3 ,15,22, Souissi does not expressly teach the controller is operable to communicate over SMS protocol.

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However, Mizell et al. teach the controller is operable to communicate over SMS protocol (abstract).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of at the time of invention was made to combine Souissi and Mizell et al. in operating over SMS protocol , as taught by Mizell , in order to transmit packet of data in short messaging service protocol in a dual mode communication .

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sorenson et al (6,463,298) discloses a wireless communication device automatically and seamlessly switches to an alternative , available system when it is unable to complete a call origination attempt, without requiring the user to take any affirmative actions to select the alternate system (abstract) .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**TILAHUN GESESSE**  
**PATENT EXAMINER**